IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

THE HON'BLE MR JUSTICE S.ANANDA REDDY

And

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 3466 of 2004

Between:

M/S Bharathi Book Centre, 18-746, High Road,
Chittoor - 517 001, rep. by its Proprietor, Mr. A.V. Rama Murthy.

..... PETITIONER

AND

1 The Assistant Commissioner (CT), Intelligence, Chittoor.
2 The Assistant Commercial Tax Officer (Int) Chittoor.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the collection of compounding fees of Rs. 95,120/- on 28-7-2003 for alleged offences under Section 30(3) of the APGST Act and direct the Respondents to refund the amount of Rs. 95,120/-.

Counsel for the Petitioner:MR.S.DWARAKANATH

Counsel for the Respondents: SPL GOVERNMENT PLEADER FOR TAXES

The Court made the following ORDER:

In this case the inspection was made on 24-07-2003 and a show cause notice was issued on the same day for collection of tax and compounding fee. The reply given by the petitioner was on
28-07-2003 and the tax and compounding fee were collected on 28-07-2003 for Rs.95,120/- each. Three months thereafter, the assessment was made on 14-10-2003. However, in the appeal, the assessment was set aside and the matter was remanded back. Since the assessment has been set aside, there could be no question of collection of any compounding fee.

In these circumstances, we allow this writ petition and direct the respondents to adjust/refund of the amount collected by way of compounding fee. The respondents shall complete the process within two months from today. No costs.

(BILAL NAZKI, J)

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(S.ANANDA REDDY, J)

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(L.NARASIMHA REDDY, J)

8th OCTOBER, 2004.

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To

1 The Assistant Commissioner (CT), Intelligence, Chittoor.
2 The Assistant Commercial Tax Officer (Int) Chittoor.

3 Two CCs to the Special Government Pleader for Commercial Taxes, A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.